

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

REX L. HATFIELD,

Plaintiff,

v.

CIVIL ACTION NO. 5:18-cv-00420

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM OPINION AND ORDER

On March 12, 2018, the Plaintiff, proceeding *pro se*, filed a *Motion for Damages and Supporting Brief Pursuant to 18 U.S.C. § 4126, Inmate Accident Compensation Act* (Document 2) seeking monetary relief due to an eye injury he suffered while working at FCI Beckley. On that same date, the Plaintiff also filed a *Motion for Preliminary Injunction* (Document 3) requesting an injunction restraining the United States from taking action to transfer or otherwise hinder him from pursuing his motion for damages pursuant to 18 U.S.C. § 4126.

By *Standing Order* (Document 4) entered on March 12, 2018, this action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On March 13, 2018, the Magistrate Judge entered an *Order and Notice* (Document 5) advising the Plaintiff that the Court construed his *Motion for Damages and Supporting Brief Pursuant to 18 U.S.C. § 4126, Inmate Accident Compensation Act* (Document 2) as a Complaint

seeking relief pursuant to the Federal Tort Claims Act (FTCA). The *Order and Notice* further notified the Plaintiff of the procedure for filing a claim under the Inmate Accident Compensation Act (IACA), and instructed the Plaintiff to notify the Court as to whether he intended to pursue his claim under the IACA or the FTCA. On March 26, 2018, the Plaintiff filed his *Response to Order and Notice* (Document 6) advising that he wished to pursue his claim under the FTCA.

Subsequently, on March 30, 2018, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 8) wherein it is recommended that this Court deny the Plaintiff's *Motion for Preliminary Injunction* (Document 3). Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by April 16, 2018, and none were filed by either party.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Plaintiff's *Motion for Preliminary Injunction* (Document 3) be **DENIED**.

Further, pursuant to 28 U.S.C. § 636(b)(1)(B), the Court **ORDERS** that the matter be referred back to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, who shall consider the pleadings and evidence therein and submit to this Court proposed findings of fact and recommendation for disposition relating to the Petitioner's FTCA claim.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: April 30, 2018

A handwritten signature in blue ink, reading "Irene C. Berger", is written over a horizontal line.

IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA